

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JERRY VANDIVER,

Plaintiff,

Case No. 1:14-cv-350

v.

Honorable Robert J. Jonker

PRISON HEALTH SERVICES, INC., et al.,

Defendants.

ORDER

This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983. On May 21, 2014, the Court entered an opinion and order dismissing Plaintiff's action in part and serving the remaining claims against the surviving Defendants. Under the Court's order, Plaintiff was required, within 14 days, to provide 11 copies of the complaint for service upon the surviving Defendants. Plaintiff now moves for a thirty- day extension of time to file a motion for reconsideration of the Court's May 21 order (docket #22). Plaintiff filed a second motion seeking a 30-day extension of time to file a motion for reconsideration of the Court's May 21 order, as well as a 30-day extension of time in which to provide the copies for service (docket #23).

Under Rule 54(b) of the Federal Rules of Civil Procedure, a non-final order is subject to reconsideration at any time before entry of a final judgment. *Id.*; see also *ACLU v. McCreary Cnty.*, 607 F.3d 439, 450 (6th Cir. 2010). The Court's order for partial dismissal was a non-final order, and, thus, is subject to reconsideration at any time before a final judgment is entered in this

action. Because there is no prescribed time limit for Plaintiff's motion, Plaintiff's motions for a 30-day extension of time will be denied as moot.

Plaintiff claims that he submitted the complaint, exhibits and the Court's May 21 order for copying to the assistant librarian at the E.C. Brooks Correctional Facility. However, before Plaintiff received the copies, he was transferred from Brooks to the Macomb Correctional Facility. Plaintiff alleges that he has not yet received his legal and personal property from Brooks and, thus far, has been unable to obtain the requested copies of the complaint from Brooks. Under the circumstances, the Court will grant Plaintiff's motion for extension of time. Plaintiff shall have an additional 30 days, until July 4, 2014, in which to submit the copies for service. Therefore:

IT IS ORDERED that Plaintiff's motions for a 30-day extension of time to file a motion for reconsideration (dockets ##22-23) are DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's motion for a 30-day extension of time to file copies of the complaint for service (docket #23) is GRANTED. Plaintiff has until July 4, 2014, to submit the copies for service. No further extensions of time will be granted.

Dated: June 19, 2014

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge